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Kevin L. Smith

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BARNES, Judge

Case Summary

Michael Peterson appeals his twelve-year sentence for four counts of Class C felony burglary. We affirm.

Issues

Peterson raises one issue on appeal, which we restate as the following two issues:

- I. whether the trial court abused its discretion in sentencing him; and
- II. whether his twelve-year sentence is inappropriate in light of his character and the nature of the offense.

Facts

On January 4, 2006, Peterson was charged under cause number 16C01-0601-FC-5 with one count of Class C felony burglary and one count of Class D felony theft stemming from his breaking into a service station and stealing tires. On December 21, 2006, Peterson was charged under cause number 16C01-0612-FC-216 with three counts of Class C felony burglary and one count of Class C felony corrupt business influence based on his breaking into garages and pole barns, stealing all-terrain vehicles, and selling them.

On August 27, 2007, Peterson pled guilty to one Class C felony burglary count from the charges in FC-5 and three Class C felony burglary counts from the charges in FC-216. He entered into a conditional plea agreement that provided a maximum sentence of four years for the FC-5 burglary conviction, to be served concurrently with the sentence for the FC-216 convictions. The conditional plea agreement for those three

charges provided for the advisory sentence of four years for each, but the maximum executed time could not exceed six years.

The trial court initially committed Peterson to Richmond Hospital for substance abuse treatment on October 15, 2007. He was returned to the county jail less than two months later, apparently due to unsatisfactory progress in the program. The trial court held a sentencing hearing on December 27, 2007. The trial court sentenced Peterson to the four-year advisory sentence for each of the three Class C burglary convictions under the FC-216 cause number, to be served consecutively. The trial court ordered an additional four years for the Class C felony burglary conviction under FC-5 to be served concurrently, for a total sentence of twelve years, with six executed and six on probation. This appeal followed.

Analysis

I. Abuse of Discretion

Peterson first argues that the trial court abused its discretion by not providing a sufficiently detailed sentencing statement and by failing to consider his guilty plea as a mitigator. We engage in a four-step process when evaluating a sentence under the current “advisory” sentencing scheme. See Anglemyer v. State, 868 N.E.2d 482, 491 (Ind. 2007). First, a trial court must issue a sentencing statement that includes “reasonably detailed reasons or circumstances for imposing a particular sentence.” Id. Second, the reasons or omission of reasons given for choosing a sentence are reviewable on appeal for an abuse of discretion. Id. Third, the weight given to those reasons, i.e. to particular aggravators or mitigators, is not subject to appellate review. Id. Fourth, the

merits of a particular sentence are reviewable on appeal for appropriateness under Indiana Appellate Rule 7(B). Id.

The trial court issued oral and written sentencing statements. The oral statement pronounced at the close of the sentencing hearing did include reasons for imposing the chosen sentence. The trial court stated that it “acknowledges the mitigating and aggravating factors today. Mitigating being the Defendant’s remorse, family concerns. The aggravating being his criminal record. But the Court believes that the advisory sentences are appropriate.” Tr. p. 76. The trial court explained that although it understood Peterson hoped to receive home detention in order to take care of his four children, his own disregard of the law put the children’s welfare at risk in the first place. The written statement did not recite the aggravators and mitigators, but did specifically list the length of sentence for each conviction. Because we examine both statements to discern the findings of the trial court, we conclude the sentencing statements here are sufficiently detailed. See McElroy v. State, 865 N.E.2d 584, 589 (Ind. 2007) (explaining that an oral statement should be examined alongside a written statement).

Peterson next argues that the trial court abused its discretion by failing to identify his guilty plea as a mitigating factor. On rehearing in Anglemyer v. State, 875 N.E.2d 218, 220 (Ind. 2007), our supreme court addressed the same issue. Our supreme court acknowledged:

We have held that a defendant who pleads guilty deserves “some” mitigating weight be given to the plea in return. But an allegation that the trial court failed to identify or find a mitigating factor requires the defendant to establish that the mitigating evidence is not only supported by the record but

also that the mitigating evidence is significant. And the significance of a guilty plea as a mitigating factor varies from case to case. For example, a guilty plea may not be significantly mitigating when it does not demonstrate the defendant's acceptance of responsibility . . . or when the defendant receives a substantial benefit in return for the plea.

Anglemyer, 875 N.E.2d at 220-21 (citations omitted) (emphasis added).

Peterson argues his guilty plea is significant because by pleading he saved the State the trouble of potentially multiple trials. Peterson fails to acknowledge that in exchange for his guilty plea, the State limited his exposure to incarceration, which could have ranged up to thirty-two years¹, to a maximum aggregate sentence of twelve years, with a maximum six years executed. The State also dismissed the other pending charges, Class D felony theft and Class C felony corrupt business influence. Peterson has not established that the trial court abused its discretion in failing to recognize his guilty plea. It would have been appropriate for the trial court to acknowledge the guilty plea but explain that the plea was not significant and would not be assessed a great deal of mitigating weight. However, to the extent that Peterson argues his guilty plea should have been given more weight, we do not reweigh aggravators and mitigators. See Anglemyer, 868 N.E.2d at 491. The trial court did not abuse its discretion in sentencing Peterson.

¹ The maximum sentence for a C felony is eight years and Peterson faced four C felonies. See Ind. Code § 35-50-2-6(a).

II. Appropriateness

Having concluded the trial court acted within its discretion in sentencing him, we assess whether Peterson's sentence is inappropriate under Indiana Appellate Rule 7(B) in light of his character and the nature of the offense. See Anglemyer, 868 N.E.2d at 491. Although Rule 7(B) does not require us to be "extremely" deferential to a trial court's sentencing decision, we still must give due consideration to that decision. Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). We also understand and recognize the unique perspective a trial court brings to its sentencing decisions. Id. "Additionally, a defendant bears the burden of persuading the appellate court that his or her sentence is inappropriate." Id.

Although the nature of these crimes is not particularly egregious, the pattern of repeated burglaries for over a year shows a continuous disregard for the law and the property of others. Peterson's accomplices to these crimes included the mother of his children and additional friends. At one point, two of the children were with Peterson as he attempted to sell stolen goods. Nothing in the nature of these crimes warrants a reduction to the twelve-year sentence.

Peterson has a criminal history that includes one misdemeanor conviction for illegal possession of alcohol, three misdemeanor driving while suspended convictions, a misdemeanor for resisting law enforcement, and a Class D felony for nonsupport of a dependent. He did express remorse, but Peterson's statement during the sentencing hearing also included a laundry list of complaints about the bad behavior of the mother of three of his children and did not include any apologies to the victims. We do understand

he has a very strong desire to serve his time on probation so he can attend to the care of his four children. We conclude, though, that a twelve-year sentence is appropriate in light of Peterson's character and the nature of the offense.

Conclusion

The trial court did not abuse its discretion in sentencing Peterson. His twelve-year sentence is appropriate in light the nature of the offense and his character. We affirm.

Affirmed.

CRONE, J., and BRADFORD, J., concur.